

**LEMON GROVE CITY COUNCIL
AGENDA ITEM SUMMARY**

Item No. 4
Mtg. Date December 6, 2016
Dept. City Manager's Office

Item Title: **Amendment to the Heartland Communication Facility Authority Joint Powers Agreement**

Staff Contact: Lydia Romero, City Manager

Recommendation:

Adopt a resolution (**Attachment B**) approving the Amended and Restated Joint Powers Agreement for Heartland Communications Facility Authority Agreement.

Item Summary:

The purpose of this agenda item is to present a resolution approving the Amended and Restated Joint Powers Agreement for Heartland Communications Facility Authority Agreement for City Council consideration. The staff report (**Attachment A**) provides background information, a description of the Agreement and a cost analysis.

Fiscal Impact:

No impact with approval of this amended agreement.

Environmental Review:

- | | |
|---|---|
| <input checked="" type="checkbox"/> Not subject to review | <input type="checkbox"/> Negative Declaration |
| <input type="checkbox"/> Categorical Exemption, Section | <input type="checkbox"/> Mitigated Negative Declaration |

Public Information:

- | | | |
|--|---|---|
| <input checked="" type="checkbox"/> None | <input type="checkbox"/> Newsletter article | <input type="checkbox"/> Notice to property owners within 300 ft. |
| <input type="checkbox"/> Notice published in local newspaper | <input type="checkbox"/> Neighborhood meeting | |

Attachments:

- A. Staff Report
- B. Resolution (including the Amended Joint Powers Agreement for Heartland Communications Facility Authority)

LEMON GROVE CITY COUNCIL STAFF REPORT

Item No. 4

Mtg. Date December 6, 2016

Item Title: **Amended and Restated Joint Powers Agreement for Heartland Communications Facility Authority Agreement**

Staff Contact: Lydia Romero, City Manager

Background

The City of Lemon Grove is a member of the Heartland Communications Facility Authority, a joint powers authority (JPA) that provides fire and emergency medical dispatch services to member and contract agencies. The original agreement was entered into in 1986 and last amended in 2013.

The changes in the amended agreement were agreed to by the Management Advisory Committee and Board of Chiefs, and unanimously approved by the Heartland Communications Facility Commission at their meeting of November 3, 2016.

Discussion:

While numerous insignificant changes to form, format, and wording were made, the most important elements of amended agreement are:

1. Member agencies are committing to a seven year term expiring June 30, 2023.
2. Introduction of a weighted voting system for "any CalPERS financial issue of the Authority."
3. The debt, liabilities, and obligations of the JPA are further defined. Withdrawing agencies are required to pay their pro rata share of all outstanding obligations.
4. To minimize the disproportionate administrative burden of small agencies, a minimum fee based on a threshold call volume (500 calls per year) will be assessed.
5. Clarification of quorum requirements to specify a majority of members, rather than those in attendance, is required for action.
6. Clarification of dissolution language to include "winding down" costs.

The amended agreement is included as an exhibit to the approving resolution.

Conclusion:

Staff recommends that the City Council adopt the resolution approving the amended and restated Heartland Communication Facility Authority Joint Powers Agreement.

Attachment B

RESOLUTION NO. 2016-____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LEMON GROVE, CALIFORNIA AUTHORIZING THE CITY OF LEMON GROVE TO APPROVE AND SIGN THE AMENDED AND RESTATED HEARTLAND COMMUNICATION FACILITY AUTHORITY JOINT POWERS AGREEMENT

WHEREAS, the City of Lemon Grove is a participating agency in the Heartland Communication Facility Authority; and

WHEREAS, Council Member Vasquez is the City's appointed representative on the Heartland Communications Facility Commission; and

WHEREAS, the original Agreement was entered into 1986 and last amended in 2013; and

WHEREAS, the changes to the amended agreement were agreed to by the Management Advisory Committee and Board of Chiefs; and

WHEREAS, the revisions were unanimously approved by the Heartland Communications Facility Commission at their meeting on November 3, 2016.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lemon Grove, California hereby:

1. Finds the above recitations are true and correct; and
2. Authorizes the City Manager to execute the Amendment (Exhibit 1) on behalf of the City of Lemon Grove.

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**AMENDED AND RESTATED
JOINT EXERCISE OF POWERS AGREEMENT FOR
"HEARTLAND COMMUNICATIONS FACILITY AUTHORITY"**

A Joint Exercise of Powers Agreement was originally made and entered into on the 25th day of June, 1986, ("Original Agreement") amended at various times including on the 1st day of July, 2013, and most recently amended on the January 1, 2017 by and among the ALPINE FIRE PROTECTION DISTRICT, BONITA-SUNNYSIDE FIRE PROTECTION DISTRICT, CITY OF EL CAJON, CITY OF LA MESA, LAKESIDE FIRE PROTECTION DISTRICT, CITY OF LEMON GROVE, and the CITY OF SANTEE (collectively the "Member Agencies" and individually "Member Agency"), all of which are organized and existing under and by virtue of the laws of the State of California.

WITNESSETH:

WHEREAS, the Member Agencies desire to amend and restate the Original Agreement by this agreement ("Agreement"); and

WHEREAS, the Member Agencies are each empowered by law to acquire sites, construct, equip, staff, maintain, operate and lease public buildings and related facilities for the purpose of communications; and

WHEREAS, the Member Agencies desire to provide fire communication and related services, and equip, staff, and operate a regional public safety services communications facility, and to provide a vehicle for the accomplishment thereof; and

WHEREAS, the Member Agencies desire to accomplish the aforesaid purpose by jointly exercising their common powers in the manner set forth in this Agreement; and

WHEREAS, the Member Agencies are authorized to jointly exercise their powers pursuant to the provisions of Article 2, Chapter 4, Part 2, Division 2, Title 5, Sections 55631 through 55634, and Article 1, Chapter 5, Division 7, Title 1, Sections 6500 through 6530, of the Government Code of the State of California;

NOW, THEREFORE, the Member Agencies, for and in consideration of the mutual benefits, promises, and agreements set forth herein, AGREE as follows:

SECTION 1. Restatement and Purpose.

Except as otherwise provided in this Agreement, effective as of January 1, 2017 ("Effective Date"), this Agreement amends, restates, and supersedes in its entirety the Original Agreement.

This Agreement is made pursuant to California Government Code Section 6500, et seq., hereinafter referred to as the "Act," to permit the joint exercise of certain powers common to the Member Agencies. The purpose of this Agreement is to enable the Member Agencies to exercise these powers jointly by equipping, maintaining, operating and staffing a facility and providing emergency call receiving and dispatching services to the Member Agencies. Such purpose will be accomplished and common powers exercised in the manner set forth in this Agreement. This Agreement is not intended to impair obligations of the Member Agencies arising under the Original Agreement which exist as of the Effective Date of this Agreement. All pre-existing obligations, rights, and privileges of the Member Agencies shall continue hereunder, subject to the terms and conditions of this Agreement.

SECTION 2. Term.

This Agreement shall become effective as of the Effective Date hereof and shall continue indefinitely in full force and effect as long as the number of Member Agencies is not reduced below two (2), or until such time as the Member Agencies agree to amend, withdraw from, or terminate the Agreement, in the manner set forth in Section 8. In the event that the Member Agencies vote to merge or consolidate the Authority with another joint powers agency, and the Authority is not the surviving joint powers agency, this Agreement will terminate upon culmination of such merger or consolidation.

SECTION 3. Authority.

A. Creation of Authority.

Pursuant to Section 6506 of the Act, there is hereby created a public entity, separate and apart from the Member Agencies, to be known as the "Heartland Communications Facility Authority" ("Authority"). The Debt and Long Term Liabilities and Obligations of the Authority as defined in Sections 5(C)(5) and 5(C)(6) of this Agreement shall constitute the Debt and Long Term Liabilities and Obligations of the Member Agencies on a pro rata basis as set forth in Sections 5(C)(3) and 5(C)(4).

B. Commission.

The Authority shall be governed by a commission, which shall be called the "Heartland Communications Facility Commission" ("Commission") and which shall exercise the powers set forth in Section 4(B) of this Agreement. Each Member Agency shall have one seat on the Commission and may appoint one Primary Commissioner to fill that seat and one Alternate Commissioner to fill that seat in the absence of the Primary Commissioner. Such appointments shall be made from members of the governing body of the Member Agency in accordance with the Member Agency's policies and procedures. A Commissioner shall serve at the pleasure of the appointing Member Agency, except such appointee shall cease to be a Commissioner if he or she ceases to be a member of the governing body of the appointing Member Agency, or if

the appointing Member Agency ceases to be a party to this Agreement. Each appointing Member Agency shall notify the Secretary of their respective appointments. The Secretary shall notify each Member Agency of the appointments of the other parties.

C. Board of Chiefs.

Pursuant to Section 6508 of the Act, there is hereby created an administrative body, immediately subordinate to the Commission, to be known as the "Board of Chiefs" ("Board"), whose members are hereinafter referred to as "Chiefs", and which shall exercise the powers set forth in Section 4(C) of this Agreement. Each Member Agency shall have one primary Chief on the Board and one alternate Chief to fill that seat in the absence of the primary Chief. A Chief who represents more than one Member Agency shall have one vote for each agency he or she represents. A Chief, or his or her designee, shall serve at the pleasure of the Member Agency of which he or she is a representative, except he or she shall cease to be a Chief if he or she ceases to be the Fire Chief or the designee of the Fire Chief for the Member Agency, or if such Member Agency ceases to be a party to this Agreement. Each of the Member Agencies shall notify the Secretary of the names of its respective Chiefs, as applicable.

D. Management Advisory Committee

A Management Advisory Committee ("MAC") shall be made up of the City Managers of each of the member cities, and the Fire Chiefs of the member districts. A MAC representative shall serve at the pleasure of the Member Agency of which he or she is a representative, except he or she shall cease to be a MAC representative if he or she ceases to be the City Manager of the member city or Fire Chief of the member district, or if such Member Agency ceases to be a party to this Agreement. Each of the Member Agencies shall notify the Secretary of the names of its respective MAC representatives, as applicable.

E. Administration.

The Authority may employ a Director ("Director"). The Director shall be authorized to act on behalf of the Commission in all matters relating to the day to day operations of the Authority, implementation of the approved budget, and the direction of the personnel of the Authority under the general direction of the Board. The Director shall advise the Board and the Commission as requested in connection with any business relating to the Authority. The Director shall be hired by, report to, and serve at the pleasure of the Board, with the ratification of the Commission.

F. Attorney of the Authority.

The Attorney of the Authority shall be selected by the Commission and serve at the will of the Commission. The Attorney shall advise the Commission, the Board, and the HCFA Director as requested in connection with any business relating to the

Authority. The Commission may, as determined necessary, employ other counsel to represent and advise the Board and the Commission on business and/or other litigation.

G. Meetings of the Commission, the Board, and the MAC

(1) Regular and Special Meetings of the Commission.

The Commission shall provide for its regular meetings; however, it shall hold at least one regular meeting immediately prior to each April 30, at which meeting the Commission shall consider and adopt the preliminary budget for the Authority, with final adoption by July 31st, for the ensuing fiscal year. The Commission shall provide for such further special meetings as may be needed, depending upon the urgency of business, or as may reasonably be requested by any Commissioner. The date, hour, and location at which any regular meeting shall be held shall be fixed by resolution and a copy of such resolution shall be filed with each of the Member Agencies.

(2) Regular and Special Meetings of the Board.

The Board shall provide for its regular meetings; however, it shall hold at least one regular meeting each quarter. The Board may provide for further special meetings as may be needed, depending upon the urgency of business, or as may reasonably be requested of the Chair of the Board by a majority of the Chiefs. The date, hour, and location at which regular meetings shall be held shall be fixed by resolution and a copy of the resolution shall be filed with each of the Member Agencies.

(3) Meetings of the MAC

The MAC shall meet occasionally and as necessary but at least twice per year to review the proposed budget, financial performance, capital improvement program, financial reserves, and to provide advisement regarding operations and business matters to the Commission. One meeting shall be prior to budget adoption, a second meeting shall be a mid-year review. The role of the MAC shall be advisory only to the Commission. Meetings may be convened with reasonable notice to MAC members at the request of the MAC, Commission, Board, or Director at a reasonable time, date, and location. The MAC shall have no officers and because the role of the MAC shall be to provide review and advisement, no quorum shall be necessary for the MAC to conduct a meeting. A good faith effort will be made to contact all MAC members and to attain a majority of members to attend any scheduled meeting.

(4) Ralph M. Brown Act.

The Commission and the Board shall adopt rules for conducting their meetings and other business. All meetings of the Commission, the Board, and the MAC, including without limitation regular, adjourned regular, and special meetings, shall be called, noticed, and conducted in accordance with the provisions of the Ralph M. Brown

Act (commencing with Section 54950 of the Government Code of the State of California).

(5) Minutes.

The Secretary shall cause minutes of regular, adjourned regular, and special meetings to be kept, and shall, as soon as reasonably practicable after each meeting, provide a copy of the minutes to each Commissioner and each Chief, respectively, and to each of the Member Agencies.

(6) Quorum.

A majority of the Commission or Board shall constitute a quorum for the transaction of business by that body. A lesser number of each body may adjourn for lack of a quorum. No action shall be taken by either the Commission or the Board without an affirmative vote of approval by Commissioners or Board representing a simple majority of the total number of Member Agencies; provided, however, that voting on an action involving a CalPERS financial issue shall be by weighted voting as set forth in Section 5(C)(5) below.

H. Officers and Respective Duties.

(1) Chair and Vice Chair of the Commission.

The Commission shall elect a Chair and Vice Chair at its first regular meeting, and thereafter, at the first regular meeting held in each succeeding calendar year, the Commission shall elect or re-elect its Chair and Vice Chair. In the event the Chair or Vice Chair so elected ceases to be a Commissioner, the resulting vacancy shall be filled at the first meeting of the Commission held after such vacancy occurs. In the absence or inability of the Chair to act, the Vice Chair shall act as Chair. The Chair, or in his or her absence the Vice Chair, shall preside and conduct all meetings of the Commission.

(2) Secretary to the Commission.

The Director and/or designee shall be the Secretary to the Commission. The Secretary will keep minutes and will prepare an agenda for each meeting of the Commission and the Board. The Secretary will solicit agenda items for regular meetings at least fifteen working days in advance, and will distribute the agenda and supporting documentation in accordance with the provisions of the Ralph M. Brown Act. The Secretary will meet jointly with the Chair of the Board of Chiefs and Chair of the Commission at least ten working days in advance to develop the agenda. Agenda items will be supported by appropriate documentation and explanation. The Secretary will deliver the agenda and supporting documentation to each Commissioner, each officer of the Authority, and the Chair of the Board at least five working days prior to the scheduled meeting.

(3) Treasurer/Controller of the Authority.

The Treasurer/Controller shall be appointed by the Commission, attend the meetings of the Commission, and advise the Commission in connection with any accounting, budgetary, monetary, or other financial matters relating to the Authority. The duties and responsibilities of the Treasurer/Controller include, but are not limited to, those set forth in Government Code Sections 6505, 6505.5, and 6509.5, and shall include the following:

(a) Establish, with the Commission's approval, the annual budget format, accounts, and documentation pertaining thereto, which most nearly reflect the objectives of the Authority and the operation of the communications program;

(b) Establish and maintain the particular funds and accounts as required by generally accepted accounting practices and which most accurately and appropriately record and report the operations of the Authority as represented by the annual budget document;

(c) Enforce strict compliance with the approved annual budget and approve only expenditures authorized therein;

(d) Ensure that all available cash is at all times invested in a cash management program and investment portfolio pertaining thereto in accordance with the provisions of California Government Code Section 53600 et seq. He or she will further ensure that sufficient liquidity is maintained to meet the Authority's cash disbursement needs;

(e) Furnish quarterly revenue, expenditure, and funds status reports to the Chair of the Commission; coordinate an annual audit of the basic financial statements in accordance with generally accepted governmental auditing standards; and facilitate an annual agreed upon procedures review of the debts, liabilities, and obligations of the Authority according to each Member Agency's pro rata share of call volumes;

(f) Maintain an inventory of all property of the Authority with the power to designate the Authority Director as the custodian of such property;

(g) With advice from the Commission, obtain and maintain liability and casualty insurance for the Authority and for the property of the Authority, respectively; and

(h) Make all books and records of the Authority in his or her possession open to inspection at all reasonable times by representatives of the Member Agencies.

(4) Chair and Vice Chair of the Board.

The Board shall elect a Chair and Vice Chair at its first regular meeting of each calendar year. In the event that the Chair or Vice Chair so elected ceases to be a Chief, the resulting vacancy shall be filled at the first meeting of the Board held after such vacancy occurs. In the absence or inability of the Chair to act, the Vice Chair shall act as Chair. The Chair, or in his or her absence the Vice Chair, shall preside at and conduct all meetings of the Board.

(5) Secretary of the Board.

The Director or such person designated by the Director shall be the Secretary of the Board. The Secretary will keep minutes and will prepare an agenda for each meeting of the Board.

SECTION 4. Powers and Duties.

A. Authority.

The Authority shall have the powers common to the Member Agencies set forth in recitals of this Agreement, to wit: the power to acquire sites and construct, equip, staff, maintain, operate and lease public buildings, and related facilities for the purpose of communications.

The Authority is hereby authorized in its own name to perform all acts necessary for the exercise of common powers, including, but not limited to, any or all of the following:

- (1) To make and enter into contracts;
- (2) To employ agents and employees;
- (3) To acquire, construct, manage, maintain and operate any buildings, works or improvements;
- (4) To acquire, hold, or dispose of property within the County of San Diego;
- (5) To incur Debt and Long Term Liabilities and Obligations as defined in Sections 5(C)(5) and 5(C)(6);
- (6) To receive gifts, contributions and donations of property and funds, services, and other forms of financial assistance, from persons, firms and corporations, and any governmental entity;
- (7) To rent or lease communications services to public or non-public agencies; and
- (8) To sue and be sued in its own name.

Such powers shall be exercised in the manner provided in the Act, and, except as expressly set forth herein, are subject only to such restrictions as are imposed upon the City of El Cajon in the exercise of similar powers, pursuant to Government Code Section 6509. The Debt and Long Term Liabilities and Obligations of the Authority shall also be the Debt and Long Term Liabilities and Obligations of each of the Member Agencies on a pro rata basis according to each Member Agency's respective percentage of call volumes.

The Authority shall exercise aforesaid powers as needed to implement the purpose of this Agreement. Pursuant to Section 6504 of the Act, the Authority is empowered, and by this Agreement required, to assess the Member Agencies to finance the entire operation of the Authority in the manner set forth in this Agreement. The Authority may contract indebtedness for capital items only in the manner otherwise permitted by law. However, long-term financing shall be limited to the projected life term of the equipment or facility being financed, or a ten-year period, whichever is less.

B. Commission.

The Commission, as governing body of the Authority, shall formulate and set policy, including budget and purchasing policies, and shall exercise the powers set forth in Section 4(A) of this Agreement to accomplish its purpose. While the Commission retains full control and is responsible for the affairs of the Authority, it shall rely upon the Board for actual program development, implementation, and operation. The normal vehicle by and through which this shall be accomplished is the annual budget in the manner set forth in this Agreement.

C. Board.

The Board is the administrative arm of the Commission and is authorized to act on behalf of the Commission as necessary for the ordinary conduct of business. The Board is responsible to the Commission for development of a consolidated regional public safety services communications program, and for the leasing of facilities, acquisition of equipment, personnel staffing, and full-time maintenance and operation of the communications program.

The Board shall exercise its authority and responsibilities by and through its Chair, whose appointment is set forth in Section 3(H)(4) of this Agreement.

SECTION 5. Fiscal Year, Financing and Annual Budget.

A. Fiscal Year.

The Authority's fiscal year shall be the twelve-month period commencing each July 1.

The Authority shall operate only under an approved fiscal year budget. The Authority may not operate at a deficit.

B. Budget Reserve.

The Member Agencies shall pay for the entire operation of the Authority, using the annual expenditure budget to determine the total amount of assessment required. Each annual budget shall include a minimum reserve for Contingency equal to ten percent (10%) of otherwise budgeted and approved expenditures ("Reserve"). Money may be expended from this Reserve only with the express approval of the Commission. Any unexpended balance of the Reserve shall roll over as the beginning balance of the subsequent fiscal year. The total assessment against the Member Agencies may be reduced by expected revenue from executed contracts for dispatch services to public and non-public agencies and by unexpended or unobligated monies available at the end of the fiscal year prior to the year for which the budget is applicable.

C. Assessments, Budget.

The Commission, in adopting an annual budget, thereby fixes the assessment against the Member Agencies and Contract Agencies, which is binding thereon, except as otherwise set forth in this Agreement regarding default or withdrawal. The amount of assessment against an individual Member Agency shall be determined, and specified in the budget, in accordance with criteria set forth in a budget policy established by Resolution.

The budget policy shall include, but need not be limited to, the following:

(1) Assessment.

Assessments shall be determined for both Member and Contract Agencies based on adopted assessment rate(s) and estimated call volume from the previous calendar year. Assessment rates shall be set by action of the Commission no less than six months in advance of the effective date, notwithstanding exceptional events as determined by the Commission. Rates shall be set on a per-call basis to address the agency's long-term operating and capital needs in a way to maximize rate stability.

(2) Payment of Assessment.

Upon adoption of the fiscal year budget by the Commission, and the forwarding thereof to the governing bodies of the Member Agencies by the Secretary, the assessments fixed therein are automatically due and payable without further notice as follows:

July 15:	35%	of total assessment
October 15:	25%	of total assessment
January 15:	25%	of total assessment
April 15:	15%	of total assessment

The Commission may set a different payment schedule to accommodate the purchase of capital items, if sufficient monies would not otherwise be on hand to pay for such purchases.

A five percent (5%) late charge shall be imposed upon assessment payments not received by the Authority within forty-five (45) calendar days following mailing of a notice of assessments. An additional five percent (5%) shall be imposed if payment is not made within an additional thirty (30) calendar days. If an assessment including late charges, if any, is not paid in full within seventy-five (75) calendar days following any scheduled due date, the Member Agency shall be in default and subject to termination as a member of the Authority as provided under Section 8 of this Agreement. Upon termination of a Member Agency in default, all outstanding obligations or assessments under this Section shall become immediately due and payable. Upon withdrawal by or termination of a Member Agency, payment of Debt incurred under this section shall be governed by Section 8 of this Agreement.

(3) Operation and Maintenance Expenses.

The costs of operating and maintaining a communications facility and the communications and computer equipment housed therein shall include, but are not limited to, personnel salaries and benefits, office and computer supplies and other consumables, payments to lease a facility, and replacement parts necessary to repair equipment due to normal wear and tear from ordinary usage.

(4) Capital Expenditures.

Capital expenditures shall include the cost of original purchase of communications and computer equipment, hardware and other fixed asset type items, typically having a useful life of more than two years, including equipment improvements and additions, as opposed to replacement parts for ordinary maintenance during the useful life of the capital items. All costs associated with such purchase, such as installation, shall be capitalized. Replacement of equipment at the end of its useful life shall be a capital item.

Assessment of Member Agencies for capital expenditures shall be in accordance with the formula for operating expenses set forth in subdivision (1), above. Capital expenditures incurred for and unique to a minority of the Member Agencies shall be equally shared by such minority. The Commission may set up special cost allocation for these purchases, but all members funding the purchase must approve of the allocation.

(5) Long Term Liabilities and Obligations.

"Long Term Liabilities and Obligations" shall be defined as obligations incurred through the conduct of business payable more than one year into the future, and therefore not within the current fiscal year and annual budget, and may include any unfunded or under-funded or termination funding of employee benefit related expenses, including but not limited to compensated employee absences, OPEB Health Cost, CalPERS Risk Pool Unfunded Liability and the CalPERS Net Unfunded Termination Liability. Each Member Agency recognizes that the Authority's CalPERS Net Unfunded Termination Liability may not be capable of precise calculation at the time a Member Agency withdraws or is terminated by the Commission. Nevertheless, each Member

Agency agrees that upon withdrawal or termination it shall be liable to the Authority for a period of 5 years from the date of its withdrawal or termination for payment of its pro rata share of such Net Unfunded Termination Liability as and when such liability becomes due and payable.

(6) Debt and Debt Financing.

"Debt" shall be defined as an obligation incurred by the use of borrowed monies to be repaid in the future to purchase facilities, equipment or to pay for operational obligations. On behalf of the Authority, the Commission may approve purchase of items or improvements using debt financing.

(7) Weighted Vote System.

Except as expressly provided for herein, the Commissioner and Board representative for each Member Agency shall have one vote of equal value when a vote by the Commission or the Board is taken. A Chief who represents more than one Member Agency shall have one vote for each agency he or she represents. However the "Weighted Vote System" shall be used by the Commission or the Board when voting upon any CalPERS *financial* issue of the Authority. Each Member Agency will not have the same amount of influence over the outcome of these specific matters.

When the Commission or Board takes a vote upon a CalPERS financial issue, the Commissioner or Board representative for each Member Agency shall have a weighted vote equal to the total number of Member Agencies times a fraction, the numerator of which is the total incident call volume attributable to the Member Agency represented by the Commissioner or Board representative during the prior calendar year, and the denominator of which shall be the Authority's total incident call volume for the same time period. This allocation is likely to result in a Commissioner or Board representative having a fractional vote, e.g., one Commissioner or Board representative may have 1.25 votes, while another may have 0.75 votes.

D. Budget Administration

The Board has the authority to fully implement the approved budget. The Director, with the approval of the Board, may recommend expenditures and budgetary transfers or adjustments. However, neither the Director nor the Board may authorize personnel staffing in excess of that authorized in the budget in number, position classification, or salary. In addition, neither the Director nor the Board may alter the capital budget, utilize the Reserve for contingency, or increase the total amount of the approved expenditure budget without Commission approval.

SECTION 6. Personnel.

A. The Authority may employ a Director and any other individuals deemed necessary to staff the communications program. The positions must be authorized and funded in the Authority's annual budget.

B. The Director, with oversight of the Board, is authorized to act on behalf of the Board in all matters of personnel administration given the positions and funding authorized by the Commission in the Authority's budget. This includes, but is not limited to, hiring, supervisory direction, performance evaluations, disciplinary matters, and terminations.

C. The Board, subject to approval by the Commission, may employ the Director and communications dispatchers, to be known as "Fire Communications Dispatchers," and individuals to fill any other positions deemed necessary. The positions must be authorized and funded in the Authority's annual budget.

SECTION 7. Dispatch Service to Other Agencies.

The Authority may provide dispatch service to public agencies and non-public agencies not a party to this Agreement, but only upon the majority vote of the Commission. Such service shall be by contract, executed by the Chair of the Board on behalf of the Authority. The Commission shall establish by contract, the amount of charge for the service.

SECTION 8. Withdrawal; Termination.

Each Member Agency shall remain a party to this Agreement, and share in the costs of operation of the communications center until June 30, 2023, and continuing thereafter until this Agreement is terminated or until the Member Agency ceases to be a party to this Agreement. If, in the interim, any Member Agency defaults on payment of any assessment as defined in Section 5(C)(5) and 5(C)(6), or otherwise breaches this Agreement, such Member Agency shall be subject to termination as a member of the Authority by vote of the Commission. The terminated Member Agency remains liable for the defaulted payment and late charges for the balance of the year's assessment and, in the event of termination prior to June 30, 2023, for assessments for years through June 30, 2023. Such subsequent assessments will be determined as if the terminated Member Agency is still a member of the Authority using the Member Agency's call volume for the preceding complete fiscal year in which it was a member; the assessment will be due and payable in full on July 30 of the fiscal year for which levied. Such terminated Member Agency shall also be liable for its pro rata share of Debt and Long Term Liabilities and Obligations as defined in Sections 5(C)(5) and 5(C)(6).

After June 30, 2023, any Member Agency defaulting on payment shall be subject to termination by a vote of the Commission and shall be liable for any defaulted payments, late charges, and its pro rata share of Debt and Long Term Liabilities and Obligations as defined in Sections 5(C)(5) and 5(C)(6).

A Member Agency may withdraw as a party to this Agreement without penalty commencing on June 30, 2023, or on any June 30 thereafter, with one hundred eighty (180) days' prior notice to the Authority. Such withdrawing Member Agency shall

perform all obligations under this Agreement until the noticed June 30 date of withdrawal.

Notwithstanding the above, any Member Agency which withdraws shall be obligated to pay to the Authority a sum equal to said Member Agency's assessment for the fiscal year ending on the date of withdrawal. Further, a withdrawing Member Agency shall pay its pro rata share of the remaining balance of such Debt and Long Term Liabilities and Obligations that exists on the date of withdrawal; payment of the full amount shall be made within 30 days of the withdrawal date.

The Authority retains the right to seek legal redress, if necessary, to obtain payment of amounts due. The Authority is entitled to recover costs and attorney's fees related to such legal redress. A terminated Member Agency or a Member Agency that withdraws forfeits any claim to any assets of the Authority.

SECTION 9. Dissolution.

This Agreement shall terminate and the Authority shall be dissolved if the number of parties to this Agreement becomes less than two, or if the parties unanimously agree to terminate this Agreement. In either instance, dissolution shall only be effective upon a June 30th, but shall in no event be effective until the requirements of Section 10 are satisfied. Should dissolution occur, all remaining members shall be responsible for winding down costs, including all required audits, notwithstanding other provisions in this Agreement.

SECTION 10. Disposition of Assets.

A. This Agreement may not be terminated and there shall be no disposition of assets made to parties to the Agreement until the Authority reasonably exhausts all means of collecting any monies due to the Authority. The Commission must formally accept a final accounting prepared by the Treasurer/Controller before any final disposition of net assets may be made and termination of this Agreement consummated.

B. If the cause for termination was reduction of the number of parties to the Agreement to less than two, all net assets of the Authority shall become the property of the sole remaining party to the Agreement.

C. If the cause for termination is mutual agreement, the total dollar amount of the net assets shall be apportioned among such parties according to the relative assessments paid by those parties during the entire term of the Agreement.

D. In no event shall assets be transferred to Member Agencies until all Debts, Long Term Liabilities and Obligations are retired.

SECTION 11. Amendment to Agreement.

This Agreement may only be amended by simple majority vote of all the Member Agencies. The Commission shall initiate any proposed amendment by requesting a formal recommendation from the Board. The Commission shall then forward the proposed amendment with the Board's recommendation to the governing body of each Member Agency. The proposal shall be accompanied by a copy of the proposed amendment to the Agreement, which shall be adopted, properly executed, and returned to the Commission if the Member Agency concurs with the amendment. The Secretary shall notify each party of the resultant action.

SECTION 12. Additional Parties to the Agreement.

Public agencies, as defined in the Act, which are not parties hereto, may become parties hereto only by amendment of this Agreement as provided in Section 11 hereof, and subject to the following terms and conditions, which shall be specified in the amendment:

A. A provision specifying that, for purposes of the calculation of assessment expense allocations as set forth in Section 5(C)(1) and 5(C)(2), a minimum of 500 calls shall be attributed to the new Member Agency for a specified number of years.

B. A buy-in fee to be paid by the new Member Agency in consideration of the existing equity in the Authority's assets.

Upon approval of the amendment by a majority of the Member Agencies as set forth in Section 11, the new Member Agency shall execute the amendment consenting to be bound by all terms of this Agreement as amended and, upon execution of the amendment by a duly authorized representative of the Commission attesting that the requisite vote of the Member Agencies approving the amendment has been obtained, the public agency shall become a Member Agency with all rights and privileges and subject to all obligations and liabilities thereof.

SECTION 13. Severability.

Should any part, term, portion, or provision of this Agreement or the application thereof to any person or in any circumstances, be in conflict with any State or Federal law, or otherwise be rendered unenforceable or ineffectual, the validity of the remaining parts, terms, portions or provisions, or the application thereof to other persons or circumstances, shall be deemed severable and shall not be affected thereby, provided such remaining portions or provisions can be construed in substance to continue to constitute the Agreement that the parties intended to enter into in the first instance.

SECTION 14. Hold Harmless.

Each Member Agency shall defend, indemnify, and save all other individual Member Agencies and the Member Agency and Authority harmless from any and all claims arising out of that individual Member Agency's negligent performance of this Agreement. Any loss or liability resulting from the negligent acts, errors, or omissions of the Commission, Board, Director, or staff, while acting within the scope of their authority under this Agreement, shall be borne by the Authority exclusively. The provisions of this Section 14 shall survive the termination or expiration of this Agreement.

SECTION 15. Successors.

This Agreement shall be binding upon and shall inure to the benefit of the successors of the parties hereto.

SECTION 16. Notice to State.

A notice of the creation of the Authority by this Agreement, and/or any amendments to this Agreement, shall be filed by the Authority with the Secretary of State pursuant to Section 6503.5 of the Act.

IN WITNESS THEREOF, the parties hereto have caused this Agreement to be executed and attested by their proper officers thereunto duly authorized, and their official seals to be hereto affixed as of the day and year first above written.

ALPINE FIRE PROTECTION DISTRICT

Attest:

By: _____

Its: _____

BONITA-SUNNYSIDE FIRE PROTECTION DISTRICT

Attest:

By: _____

Its: _____

CITY OF EL CAJON

Attest:

By: _____

Its: _____

CITY OF LA MESA

Attest:

By: _____

Its: _____

LAKESIDE FIRE PROTECTION DISTRICT

Attest:

By: _____

Its: _____

CITY OF LEMON GROVE

Attest:

By: _____

Its: _____

CITY OF SANTEE

Attest:

By: _____

Its: _____

